WHAT MUST HAPPEN

Under the Brown Act an agency must:

- **post notice and an agenda** for any regular meeting, (§§ 54954(a), 54954.2(a)); mail notice at least three days before regular meetings to those who request it, (§ 54954.1); post notice of continued meetings, (§54955.1); deliver notice of special meetings at least one day in advance to those who request it, (§ 54956); and deliver notice of emergency meetings at least one hour in advance to those who request it. (§§54956, 54956.5)

- **notify the media** of special or emergency meetings if requested, (§§ 54956, 54956.5); allow media to remain in meetings cleared due to public disturbance. (§54957.9)

- **hold meetings in the jurisdiction** of the agency except in limited circumstances, (§§ 54954(b)-(e)), and in places accessible to all, with no fee. (§ 54961(a))

- **not require a “sign in”** for anyone. (§54953.3)

- **allow non-disruptive recording** and broadcast of meetings, (§54953.5(a)), and let the public inspect any recording made by the agency of its open meetings. (§54953.5(b))

- **allow the public to address** the covered board at regular or committee meetings on any item in the agency’s jurisdiction not addressed by the agency at an open earlier meeting. (§54954.3(a))

- **conduct only public votes**, with no secret ballots. (§54953(c))

- **treat documents as public** “without delay,” if distributed to all or a majority of members of a board before or at the meeting, unless they are also exempt under the Public Records Act. (§54957.5)

**WHAT IF...**

- a council member is on a board of a non-profit corporation—is the board covered?
- YES, if the council both appointed him or her to the board, and funds the corporation. (§54952(b)), (c)(1)

- an agency delegates authority to another entity—is the entity covered?
- YES, if it was created by the agency’s elected body. (§§54952(b), (c)(1))

- a council committee meeting has less than a quorum—is it required to meet openly?
- YES, if it is a standing committee and has either a set meeting schedule or a continuing subject matter jurisdiction. (§54952(b))

- members use individual contacts to collectively decide an issue—is that a violation?
- YES, information communicated to a quorate number of members through individual contacts is an open meeting. (§54952(b))

- All other government agencies. State governmental agencies are covered by the Bagley-Keene Open Meeting Act. (Govt. Code §§ 11120-11132)

**Local Rules**

Many local jurisdictions, including San Francisco, Contra Costa County, and Oakland, have adopted local “Sunshine” ordinances that grant greater access and openness. Check for local rules. Other jurisdictions often have rules that violate the Brown Act. Challenge such rules or contact the agencies listed on this brochure.
CLOSED MEETINGS
Closed meetings are the exception and permitted only if they meet defined purposes and follow special requirements (§§ 54953(a), 54954.5, 54962).

EVEN AT CLOSED MEETINGS...
Special public notice and agenda requirements apply (§§ 54954, 54954.2, 54954.5, 54957.7).

All actions taken and all votes in closed session must be publicly reported orally or in writing (§ 54957.1(b)), and copies of any contracts or settlements approved must be made available promptly (§ 54957.1(b),(c)).

CLOSED MEETINGS MAY BE HELD FOR:

Personnel
Only to discuss the appointment, employment, performance evaluation, discipline, complaints about or dismissal of a specific employee or potential employee (§ 54957). The employee may request a public meeting on any charges or complaints.

But closed sessions are NOT ALLOWED for discussing:
- general employment
- independent contractors not functioning as employees
- salaries
- the performance of any elected official, or member of the board
- the local agency’s available funds
- funding priorities or budget

Pending Litigation
Only if open discussion “would prejudice the position of the agency in the litigation.” The litigation must be named on the posted agenda or announced in open session unless doing so would jeopardize the board’s ability to service process on an unserved party or conclude existing settlement negotiations to its advantage. (§4956.9)

To qualify, the agency must:
- be a party to pending litigation (§ 54956.9(a))
- or expect, based on certain specified facts, to be sued (§§ 54956.9(b)(1),(b)(2))
- or expect to file suit itself (§ 54956.9(c))

Labor Negotiations
Only to instruct the agency’s identified negotiator on compensation issues (§ 54957.6). (Note: school districts are covered by the Rodda Act, Govt. Code §§ 3540-3549.3.)

Property Negotiations
Only to discuss, with an agency’s identified bargaining agent, price or payment terms. The parcel, negotiators and the prospective seller or purchaser must be identified on the agenda. (§ 54956.8) Final price and payment terms must be disclosed when the actual lease or contract is discussed for approval. (§ 54957.1(a))

Others
License applications for people with criminal records (§54956.7); threats to public services or facilities; (§54957) insurance pooling (§54956.95).

WHAT TO DO IF:
A MEETING IS CLOSED THAT SHOULD BE OPEN
- Refuse to leave, and use this Guide to check the law, to protest, and to enforce all notice requirements.
- Leave only if ordered by law enforcement.
- Call your editor or lawyer at once.

AN ILLEGAL CLOSED MEETING HAS BEEN HELD
- Ask participants what happened, and get reports of actions taken and copies of contracts approved.
- Call FAP, SPJ or CFAC (phone numbers are on the cover of this Pocket Guide).
- Write a story or letter to the editor about it.
- Contact the District Attorney under § 4959, or take legal action under § 54960(a) against violations or a “gag rule” imposed on a body’s members.
- A court may: (1) force the agency to make and preserve tapes of closed sessions (§ 54960(b)); (2) declare actions taken null and void (§ 54960.1(d)); (3) award costs and attorneys fees (§ 54960.5).

Funding provided by the Sigma Delta Chi Foundation of the Society of Professional Journalists